

**Title 20—DEPARTMENT OF  
INSURANCE, FINANCIAL INSTITUTIONS AND  
PROFESSIONAL REGISTRATION  
Division 200—Insurance Solvency and Company Regulation  
Chapter 6—Surplus Lines**

**PROPOSED RULE**

**20 CSR 200-6.700 Procedures for Forming and Operating a Missouri Domestic Surplus Lines Insurer**

*PURPOSE: The purpose of this rule is to prescribe procedures to be followed in applications for a certificate of authority to form and operate a Missouri domestic surplus lines insurer. This rule also effectuates and aids in the interpretation of section 384.018, RSMo.*

(1) The procedures outlined in this section are the procedures required for the successful formation of a Missouri domestic surplus lines insurer authorized to write any kind of insurance that a nonadmitted insurer not domiciled in Missouri is eligible to write.

(A) The insurer must be admitted and domiciled in Missouri. Any foreign insurance company or incorporators wishing to become or form a Missouri domestic surplus lines insurer must satisfy this requirement in one (1) of the two (2) following manners:

1. Any foreign insurance company wishing to become a Missouri domestic surplus lines insurer must first redomesticate to Missouri pursuant to the procedures outlined in section 375.908, RSMo, and 20 CSR 200-17.300; or

2. Any incorporators wishing to form a Missouri domestic surplus lines insurer must first form a Missouri domestic insurance company pursuant to the procedures outlined in sections 379.010-379.065, RSMo (insurance companies other than life), and 20 CSR 200-17.100.

(B) The insurer must furnish to the director proof that the insurer possesses policyholder surplus of at least twenty million dollars (\$20,000,000).

(C) The insurer must furnish to the director proof that the insurer is an approved or eligible surplus lines insurer in at least one (1) jurisdiction other than Missouri.

(D) The board of directors of the insurer must pass a resolution seeking to be a domestic surplus lines insurer in Missouri.

(E) The insurer must provide a copy of its current articles of incorporation. The director may waive this requirement at his/her discretion if such articles of incorporation are already on file with the department and no amendments have been made.

(F) The insurer must provide a copy of its current bylaws. The director may waive this requirement at his/her discretion if such bylaws are already on file with the department and no amendments have been made.

(G) The insurer must pay any required filing fees pursuant to section 374.230, RSMo.

(H) The insurer must submit all biographical affidavits for all officers, directors, and other key personnel of the company. The director may waive this requirement in whole or part at his/her discretion if such biographical affidavits are already on file with the department and no changes have been made to the officers, directors, and other key personnel of the company.

(I) The insurer must submit any other information requested by the director relevant to the issuance of a certificate of authority as a domestic surplus lines insurer.

(J) The insurer must surrender to the director its certificate of authority to transact admitted insurance business in the state of Missouri.

(K) Upon satisfaction that the requirements outlined in subsections (1)(A)-(J) of this section have been met, the director will accept the surrender outlined in subsection (1)(J) of this section and concurrently issue the company a certificate of authority, which shall constitute written approval for the company to be a domestic surplus lines insurer pursuant to section 384.018.1(4), RSMo.

(L) For insurers that choose to satisfy the requirements of subdivision 1 or 2 of subsection (1)(A) simultaneously with subsections (1)(B)-(I) of this section, subsection (1)(J) will be deemed satisfied without the issuance and subsequent surrender of a certificate of authority to transact admitted insurance business. Insurers already in possession of a certificate of authority to transact admitted insurance business must satisfy subsection (1)(J) as written.

(2) All financial and solvency requirements imposed by Chapters 374, 375, 379, and 382, RSMo, upon domestic admitted insurers shall apply to domestic surplus lines insurers unless domestic surplus lines insurers are otherwise specifically exempted. These financial and solvency requirements shall include, but not be limited to:

(A) Financial examination pursuant to sections 374.202 to 374.207, RSMo;

(B) The deposit requirement in section 379.098, RSMo. For the purposes of section 379.010, RSMo, a domestic surplus lines insurer shall be considered to be making two (2) or more classes of insurance. The deposit required in order to satisfy subsection (1)(A), above, may continue to be held in satisfaction of this requirement, provided the deposit is of the amount specified in section 379.010.2, RSMo, for a company making two (2) or more classes of insurance;

(C) Requirements imposed by Chapter 382, RSMo, which are all deemed to be financial and solvency requirements for the purposes of section 384.018.6, RSMo; and

(D) All other financial and solvency requirements imposed by Chapters 374, 375, 379, and 382, RSMo, upon domestic admitted insurers.

(3) All requirements imposed by Chapter 384, RSMo, upon nonadmitted insurers shall apply to domestic surplus lines insurers unless domestic surplus lines insurers are otherwise specifically exempted.

(4) A financial or solvency requirement imposed by Chapter 384, RSMo, upon domestic surplus lines insurers shall supersede a requirement imposed under section 384.018.6, RSMo and section (2) of this rule only to the extent that Chapter 384, RSMo, addresses the same financial or solvency requirement. This supersession shall be construed narrowly. Any ambiguity as to the supersession of a requirement imposed under section 384.018.6, RSMo and section (2) of this rule shall be interpreted in support of the continued application of such requirement.

(5) For the purposes of section 374.230(3), RSMo, the certificate of authority issued pursuant to section 384.018.1(4), RSMo and subsection (1)(K) of this rule shall be a certificate of authority for which annual renewal is required.

(6) By way of the certificate of authority issued to a domestic surplus lines insurer pursuant to section 384.018.1(4), RSMo and subsection (1)(K) of this rule, a Missouri domestic surplus lines insurer shall be authorized to write that kind of insurance in Missouri as required by section 384.021.1(1), RSMo.

(7) Credit shall be allowed pursuant to section 375.246.1(1), RSMo for reinsurance ceded to a Missouri domestic surplus lines insurer.

*AUTHORITY: section 374.045, RSMo Supp. 2013, and section 384.018, RSMo Supp. 2014. Original rule filed July 15, 2015.*

*PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

*PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Department of Insurance, Financial Institutions and Professional Registration, Attention: Kelly A. Hopper, P.O. Box 690, Jefferson City, MO 65102. A public hearing is scheduled for 10:00 a.m., Sept. 18, 2015, at the Harry S Truman State Office Building, Room 530, 301 West High Street, Jefferson City, Missouri. To be considered, comments must be received no later than the date of the public hearing, which is thirty-two (32) days after publication of this notice in the **Missouri Register**.*

*SPECIAL NEEDS: If you have any special needs addressed by the Americans with Disabilities Act, please notify us at (573) 751-2619 at least five (5) working days prior to the hearing.*